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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/491,094 01/24/00 HEATH

R 1975.990

QM12/0703

EXAMINER

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Tulsa OK 74119

HYLTON, R

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 07/03/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No. <b>09/491,094</b>	Applicant(s) <b>Heath et al.</b>
	Examiner <b>Robin A. Hylton</b>	Group Art Unit <b>3727</b>

- Responsive to communication(s) filed on \_\_\_\_\_.
- This action is **FINAL**.
- Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

- Claim(s) 1-10 is/are pending in the application.
- Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- Claim(s) \_\_\_\_\_ is/are allowed.
- Claim(s) 1-10 is/are rejected.
- Claim(s) \_\_\_\_\_ is/are objected to.
- Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

- See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

- Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- All  Some\*  None of the CERTIFIED copies of the priority documents have been received.
- received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \*Certified copies not received: \_\_\_\_\_.
- Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

- Notice of References Cited, PTO-892
- Information Disclosure Statement(s), PTO-1449, Paper No(s). 2
- Interview Summary, PTO-413
- Notice of Draftsperson's Patent Drawing Review, PTO-948
- Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the plastic material of the lid as described in the background of the invention in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Correction is required.

2. **INFORMATION ON HOW TO EFFECT DRAWING CHANGES**

- a. **Correction of Informalities -- 37 CFR 1.85; 1097 O.G. 36**

New formal drawings must be filed with the changes incorporated therein. The art unit number, application number (including series code) and number of drawing sheets should be written on the reverse side of the drawings. Applicant may delay filing of the new drawings until receipt of the "Notice of Allowability" (PTOL-37 or PTO-37). If delayed, the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the "Notice of Allowability" to avoid extension of time fees. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a) for filing the corrected drawings (but not for payment of the issue fee). The drawings should be filed as separate paper with a transmittal letter addressed to the Official Draftsperson.

- b. **Corrections other than Informalities Noted by Draftsperson on form PTO-948.**

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

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### **Timing of Corrections**

Applicant is required to submit acceptable corrected drawings within the three month shortened statutory period set in the "Notice of Allowability" (PTO-37). Within that three month period, two weeks should be allowed for review of the new drawings by the Office. If a correction is determined to be unacceptable by the Office, applicant must arrange to have an acceptable correction re-submitted within the original three month period to avoid the necessity of obtaining an extension of time with extension fees. Therefore, applicant should file corrected drawings as soon as possible.

Failure to take corrective action within the set (or extended) period will result in **ABANDONMENT** of the application.

### ***Specification***

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The title should include at least one technical, or inventive, feature of the claimed instant invention.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 2-10 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. It is unclear how the spout has a truncation 37 in the shape of a horizontal plane tangent to a bottom wall of a

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horizontal cylinder. What is a horizontal cylinder? Where is the horizontal cylinder located with respect to the spout? Is it a part of the spout?

6. Claims 2-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the claims are rejected for the following reasons:

The structure and structural relationships between the parts of the lid are not clearly set forth in the claims. How can the spout have a truncation (37) in the shape of a horizontal plane tangent to a bottom wall of a horizontal cylinder. What is a horizontal cylinder? Where is the horizontal cylinder located with respect to the spout? Is it a part of the spout?

How is the discharge port "approximately" rectangular? (Claim 8)

Dependent claims not specifically mentioned are rejected as depending from rejected base claims since they inherently contain the same deficiencies therein.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Montemarano (US 4,333,583).

***Conclusion***

9. The patentability of claims 2-10 cannot be determined at this time as a result of the outstanding issues under 35 USC 112, first and second paragraphs, set forth previously in this Office action.

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10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Livingstone is cited for disclosing an annular clamp comprising an annular, inner wall which is frustoconical. Toczek et al. and Boller are cited for disclosing disposable lids comprising straw openings. Negoro, Brewer, Steele et al., and Blanchard are cited for disclosing disposable lids having nodules in a skirt wall. Various other prior art lids comprising spouts are cited of interest.

11. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703)305-3579. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (703) 308-1208. The examiner can normally be reached on Monday - Friday from 9:00 a.m. to 5:00 p.m. (Eastern time).

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Ebony Smith at (703)305-3570.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148. The fax phone number for this Group is (703) 305-3579.

Robin A. Hylton/rah

June 20, 2000

  
Stephen K. Cronin  
Primary Examiner